

## **SPECIAL USE PERMIT**

<b>FILE NO.</b>	<b>SP21-037</b>
<b>LOCATION OF PROPERTY</b>	<b>North side of West Julian Street between Notre Dame Avenue and Terraine Street (255 W. Julian Street)</b>
<b>ZONING DISTRICT</b>	<b>DC Downtown Primary Commercial</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Downtown</b>
<b>PROPOSED USE</b>	<b>Special Use Permit to allow the removal of eight ordinance-size trees, the construction of a 14-story office building (the "Arbor Building") with ground floor retail, and the modification of an existing six-story office building (the "Davidson Building") to change the existing ground floor use to retail, add a rooftop terrace, and revise the façade, with associated below-grade connection and a pedestrian bridge connection between the two buildings, with associated parking via mechanical lift stackers (alternative parking design) and landscaping on an approximately 1.79-gross acre site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018</b>
<b>OWNER ADDRESS</b>	<b>Charles W Davidson Trustee Davidson Living Trust 255 West Julian Street, Suite 200 San Jose, California 95110</b>
<b>APPLICANT ADDRESS</b>	<b>Project West Julian LLC 2107 Elliott Avenue, Suite 303 Seattle, Washington, 98121</b>

The Director of Planning, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** Special Use Permit to allow the removal of eight ordinance-size trees and 25 non-ordinance trees from a vacant surface parking lot, the construction of a new 14-story office building (the "Arbor Building") with 12,908 gross floor area of ground floor retail use and 448,159 gross floor area of office use, and the modification of an existing six-story office building (the "Davidson Building") to change the existing office use to 6,317 square feet of retail use on the ground floor, retain 50,470 square feet of office use on the

upper floors, add a rooftop terrace, and make changes to the exterior façade, with associated below-grade connection and a pedestrian bridge connection between the two buildings, with associated parking via mechanical lift stackers and landscaping.

This project is associated with Tentative Map File No. T21-026 to allow a Vesting Tentative Map to merge seven lots into one lot on an approximately 1.79-gross acre site.

2. **Site Description and Surrounding Uses.** The subject site is currently developed with a six-story office building (the “Davidson Building”) and a surface parking lot. The site is bounded by Pellier Park to the east, a high-rise multifamily residential building to the southeast, a commercial building to the south, Highway 87 to the west, vacant land to the northwest, and a mixed-use commercial and multifamily residential building to the north.
3. **General Plan.** The subject site is designated **Downtown** on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan, which has FAR standards of up to 30.0 (3 to 30 stories). The Downtown designation is the primary designation for new high-intensity office, retail, service, residential, and entertainment uses in the Downtown area. All development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership.

*Analysis: The project is for two commercial office buildings with ground floor retail located within the Downtown area. The proposed 517,850 total square feet of gross floor area equates to 6.64 FAR. This is consistent with the General Plan designation.*

The project is consistent with the following key General Plan policies:

**Policy CD-6.6** – Promote iconic architecture and encourage and incorporate innovative, varied, and dynamic design features (e.g., appearance, function, sustainability aspects) into sites, buildings, art, streetscapes, landscapes, and signage to make Downtown visually exciting and to attract residents and visitors.

*Analysis: The architectural design of the Arbor Building is unique, innovative, and will bring visual interest to the Downtown skyline. The shape of the building also provides for interesting open space terraces and window shapes. The project also improves the façade of the Davidson Building by remodeling the exterior to provide more visual interest than the current design, including the addition of balconies on each floor, a new exterior glass-enclosed elevator, and a rooftop terrace. Therefore, the project is consistent with this policy.*

**Policy IE-1.5** – Promote the intensification of employment activities on sites in close proximity to transit facilities and other existing infrastructure, in particular within Downtown.

*Analysis: This site is three blocks west of North First Street, which provides transit service access to VTA light rail and bus routes 72 and 73. The site is also three blocks north of West Santa Clara Street, which provides access to bus routes 22, 64, 68, Rapid 500, Rapid 522, and Rapid 568. Therefore, the project is consistent with this policy.*

**Policy LU-3.1** – Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.

*Analysis: This project provides intensive employment use with ground floor retail and is adjacent to high-density residential uses to maximize social interactions. Therefore, the project is consistent with this policy.*

**Policy LU-3.5** – Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

*Analysis: The vehicular parking is situated underground using parking stackers to provide active use and an attractive pedestrian entrance on the ground floor. The project provides 140 bicycle parking spaces accessible from the Arbor Building lobby and accessible to tenants and visitors to both the office and retail areas of both buildings. The project also provides eleven street trees along Terraine Street and three street trees along West Julian Street for a pleasant sidewalk experience. Therefore, the project is consistent with this policy.*

4. **Zoning Regulations.** The project site is located within the **DC Downtown Primary Commercial** Zoning District. Section 20.90.200 of the City of San José Municipal Code states that parking facilities which accommodate the required number of spaces in an alternative parking design require a Special Use Permit. The zoning district provides for a range of uses including residential, commercial, educational, entertainment, and medical uses.
- a. Use: Pursuant to Municipal Code Section 20.70.100, both Retail use and Office use are allowed within the DC Zoning District.
  - b. Height and Setbacks: Per Section 20.70.200 of the Zoning Code, properties located in the DC zoning district shall only be subject to the height limitations necessary for the safe operation of San José International Airport. Additionally, per Section 20.70.210 of the Zoning Code, the Downtown Primary Commercial District is not subject to setback regulations.

*Analysis: The height and setbacks are consistent with the zoning district with a Permit Condition that the project receives a “Determination of No Hazard” from the FAA prior to Building Permit issuance, per Condition #28 of this permit.*

- c. Parking: Per Table 20-140, parking spaces required for office use is 2.5 spaces per 1,000 square feet of floor area. Retail sales, goods, and merchandise does not require parking. Pursuant to Section 20.90.050, net floor area is defined as 85% of gross floor area. This results in a parking requirement of 1,060 spaces.

This project qualifies for parking reductions per Sections 20.70.330.B and 20.90.220.A of the Zoning Code. The number of required parking spaces may be reduced by 50% with a Transportation Demand Management (TDM) Program. A TDM Program was submitted, and all management measures are included as permit conditions herein. This reduces the parking requirement to 530 spaces.

The project is also subject to additional reductions per Section 20.70.330 of the Zoning Code, up to a 15% reduction since the project is located within Downtown. This further reduces the parking requirement to 450 spaces.

*Analysis: The project is providing 470 parking spaces, which exceeds the minimum amount of 450 spaces required with the allowed reductions.. The project is therefore consistent with the parking requirements.*

**Tandem Parking:** Of the 470 spaces provided, 78 spaces (16.5%) are tandem spaces. Per Section 20.70.350 of the Zoning Code, tandem spaces may be allowed up to 50% of the required spaces with an adequate Parking Management Plan that provides analysis showing that the tandem spaces will be adequate to meet the parking demand generated by the project and may be justified by the alternate peak use of parking spaces, shared parking, proximity to public transit.

*Analysis: A Parking Demand Management Plan was received for the project, prepared by Fehr and Peers, dated September 2021. Per the Management Plan, the tandem spaces will require full valet access or valet assistance. The valet area was located to avoid disrupting circulation and allow for efficient valet operations. Access to the Valet Area is more than 500 feet into the site from the Project driveway at the Terraine Street intersection. This separation provides queuing space for entering vehicles that will require valet assistance for parking. The project is also within 0.5-mile walking distance to multiple public transit options as described above and within the Transportation Demand Management Plan. The project is therefore consistent with the tandem parking requirements.*

- d. **Bicycle Parking:** Per Table 20-190 of the Zoning Code, office use requires 1 bicycle parking space per 4,000 square feet of floor area. This calculates to 106 bicycle spaces required (85% of 498,629 sf / 4,000 sf).

*Analysis: The project is providing 140 bicycle spaces, including 20 short-term spaces exterior to the building, 97 short-term spaces within an interior bike room, and 23 long-term spaces within an interior bike room. The interior bike room is accessible from the Arbor Building lobby. Tenants and visitors to both office and retail areas of both buildings can access the bike room. This is consistent with the requirement.*

- e. **Off-street loading:** Pursuant to Section 20.70.420, offices with 100,000 – 175,000 square feet of total gross floor area shall provide one loading space. One additional loading space shall be included for each 100,000 square feet of total gross floor area in excess of 175,000 square feet. This results in four loading spaces required for the office use.

Pursuant to Section 20.70.430, retail greater than 10,000 square feet of gross floor area and less than 30,001 square feet of gross floor area shall provide one loading space. The combined gross floor area for retail use is 19,225 square feet and requires one loading space.

*Analysis: The project is providing five loading spaces. This is consistent with the requirements.*

5. **Downtown Design Guidelines.** The architectural design of the two buildings is consistent with the Downtown Design Guidelines. The site is a Gateway Site, located in a highly visible location that serves as a gateway into Downtown. Buildings on these sites have a large impact on the image of the City, and their design receives special attention in the Design Guidelines.

The frontage visible from Highway 87 is an Image-Defining Frontage. The skyline and highly visible building facades create the first impression of Downtown from other locations within San José and beyond. West Julian Street is a Secondary Addressing Street. This is a street with a commercial or residential focus. While it may provide some active ground floor uses, retail is not the primary function of the street. West Julian Street toward St. James Street and Julian Street are both Natural View Corridors with dramatic and characteristic views from the district to the eastern hills.

The project is consistent with the Downtown Design Guidelines, including key subject guidelines below:

a. Section 4.3.1: Podium Level Massing (Below 70 Feet in Height)

Standard a. Divide Podium Level building massing facing Public Space that creates a facade wider than 100 feet into visibly articulated smaller masses no wider than 80 feet using projections and recesses, materials, shadow relief, or other architectural elements.

*Analysis: The building mass is carved and setback at building corners and at the recessed balconies. Small public courtyards are visible between retail spaces A, B, and C. The exterior shading screens on the façade articulate the massing into a series of blocks that are stacked vertically. These screens project about 2' from the face of the glass façade. This creates 2' x 2' deep reveals at column lines and every other floor edge. In addition to the shading screen blades themselves, this introduces depth and texture to the façade plane. There is also a material transition between the shading screens and the glazing & column covers. This adds to the contrast and relief of all the facades and is consistent with the requirement.*

b. Section 4.4.7.b: Green Roofs and Decks

Standard a. Cover at least 20% of the area of a roof that is less than 150 feet above ground and that is larger than 2,500 square feet in area with a green roof, solar panels, or a combination of these.

*Analysis: This applies to the Davidson Building. Approximately 40% of the roof area of the Davidson Building is covered in various types of green roof planting. This is consistent with the requirement.*

c. Section 5.3.1.a: Active Frontages

Standard b. Place Active Frontages along at least 40% of the Pedestrian Level Streetwall on a street that is not an Addressing Street.

*Analysis: This standard applies to building frontages along Terraine Street. For the Davidson Building, the active frontage provided along Terrain Street is 65% transparent glass at the pedestrian level. For the Arbor Building, the active frontage provided is 82%. This is consistent with the requirement.*

Exception Request. The project is requesting an Exception to Section 4.3.2, Standard b. Per Section 1.4 of the Guidelines, an exception can only be granted if all the following findings can be made:

- a. There is physical constraint or unique situation that:
  - i. is not created by the project applicant or property owner; and
  - ii. is not caused by financial or economic constraints considerations.
- b. Approving the exception will not impair the integrity and character of the neighborhood in which the subject property is located or create a safety hazard.
- c. The proposed project meets the design standard at issue to the extent physically feasible.
- d. The proposed project meets all other guidelines and standards in the Design Guidelines.

An Exception was requested to Section 4.3.2: Skyline Level Massing (Above 70 Feet in Height), Standard b. Keep a minimum spacing of 60 feet between any portions of Skyline Level building masses.



*Exception Request Findings: It is an important feature of the design that the Arbor Building be connected to the roof terrace of the Davidson Building to ensure it is occupied and activated. If the Arbor Building were to step back an additional 30 feet above 70 feet in height, the pedestrian bridge would no longer work at this location. However, the proposed design still meets the intent of the Skyline Massing section, as well as the other Downtown Design Guidelines.*

*This exception is granted due to site-specific constraints, specifically the long and narrow site, and specific desirable design features such as the rooftop terrace and the pedestrian bridge. These constraints are not created by the project applicant or property owner, and not caused by financial or economic constraints considerations. The project design meets the intent of the standard by maintaining vertical continuity from the upper levels of the building to the street level, both to create a more elegant massing on an otherwise long, narrow site, and to connect the building to the street level and pedestrian experience. The approval of the exception request will not constitute a safety hazard, and the project is otherwise consistent with all General Plan, Zoning, and Council Development Policies and development standards.*

6. **City Council Policy Consistency.** Under City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. The on-site sign has been posted at the site since July 7, 2021 to inform the neighborhood of the project. A community meeting was held to discuss the project on June 21, 2021 via Zoom webinar. Approximately five members of the public were in attendance for the meeting. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.
7. **Environmental Review.** The environmental impacts of this project were addressed in an Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018. CEQA Guidelines, Section 15164, states that, “A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines, Section 15162 calling for preparation of a subsequent EIR have occurred. Pursuant to Section 15164, and as part of the entitlement processing for this project, an Addendum to the Downtown Strategy 2040 Final EIR was prepared. The Addendum is available on the City’s website at: [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs).

*Analysis: The 255 West Julian Street Project Addendum analyzed the project which consists of a Special Use Permit and Tentative Map to demolish the existing surface parking lot and construct an approximately 688,780-gross square foot, 14-story building containing approximately 452,000 square feet of office space and approximately 13,000 square feet of ground-floor retail, and approximately 34,687 square feet of outdoor patios and balconies, and converting an existing six-story office building into a mixed-use commercial building consisting of approximately 56,000 square feet of office space and 6,000 square feet of retail space, and approximately 17,262 square feet of new outdoor patios and balconies and a ground-floor plaza located along West Julian Street, between the existing and proposed buildings; and a Tentative Map to combine seven lots into one lot to accommodate the project on an approximately 1.70-gross acre site. The type and intensity of development proposed is consistent with the anticipated development in the Downtown Strategy 2040 FEIR.*

*No new or more significant environmental impacts beyond those identified in the Downtown Strategy EIR have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIR been identified. A Mitigation, Monitoring and Reporting Program (MMRP) includes mitigations to bring impacts to Air Quality, Biological Resources, Hazards and Hazardous Materials, and Noise to a less than significant level. A Condition of Approval implementing the MMRP is part of this permit as are standard environmental permit conditions to lessen the environmental effects of the project. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIR. For these reasons, a supplemental or subsequent EIR is not required and an Addendum to the Downtown Strategy 2040 FEIR is the appropriate environmental clearance for the project.*

8. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Special Use Permit, as follows:
- a. The special use permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.  
*Analysis: As analyzed above, the commercial office and retail project is consistent with the Downtown General Plan Land Use Designation and General Plan Policies. The use is allowed within Downtown, and the project is providing 6.6 FAR. The project site is not within a specific plan or development policy area.*
  - b. The special use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.  
*Analysis: Special Use Permits are required for projects with alternative parking arrangements such as mechanical lift parking systems per Section 20.90.200 of the Zoning Code. Commercial office and retail uses are permitted within the DC Downtown Primary Commercial Zoning District.*
  - c. The special use permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.  
*Analysis: The project is subject to and conforms to Development Policy 6-30: Public Outreach for Pending Land Use and Development Proposals. The on-site sign has been posted at the site since July 7, 2021 to inform the neighborhood of the project. A community meeting was held to discuss the project on June 21, 2021 via Zoom webinar. Approximately five members of the public were in attendance for the meeting. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.*
  - d. The proposed use at the location requested will not:
    - i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area.
    - ii. Impair the utility or value of property of other persons located in the vicinity of the site.
    - iii. Be detrimental to public health, safety, or general welfare.

*Analysis: The site is surrounded by Pellier Park to the east, a high-rise multifamily residential building to the southeast, a vacant commercial structure to the south, Highway 87 to the west, vacant land to the northwest, and a mixed-use commercial and multifamily residential building to the north. The project would not negatively affect the utility or value of surrounding properties in the neighborhood. The project would improve the existing building and develop a new commercial building with office and retail uses. The project has been designed to be compatible with the surroundings, including outdoor activities primarily oriented to the street frontage to activate the pedestrian experience and at the rooftop terrace to minimize negative impacts such as noise and glare.*

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area.

*Analysis: As identified above, the project is associated with File No. T21-026 for a Vesting Tentative Map to merge seven parcels into one parcel. The Special Use Permit would authorize the development of a commercial office and retail project on the approximately 1.79-gross acre subject site. The subject site is physically suitable for the project because all project components are designed within the project site.*

- f. The proposed site is adequately served:
  - i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate.
  - ii. By other public or private service facilities as are required.

*Analysis: The subject site is well-served by West Julian Street and Terraine Street, as well as by VTA bus routes and the VTA light rail along North 1st Street and West Santa Clara Street. The existing streets and utilities are of sufficient capacity to serve the affordable project. All public utilities are adequate as evidenced by the issuance of the Final Public Works Memo dated 7/6/21. As identified above, the project is located within 0.5 mile to bus routes 22, 64, 68, 72, 73, Rapid 500, Rapid 522, and Rapid 568, and the VTA light rail along North 1st Street.*

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: As further described in the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report, the project would not have significant CEQA impacts regarding noise, vibration, dust, drainage, erosion, stormwater runoff, or odor.*

*The development is located in Downtown and is adequately served by all required utilities and public services, and the project's Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater treatment measures to minimize stormwater pollutant discharges. Construction activities would only result in temporary noise, vibration, and air quality impacts and the project would be subject to the City's Standard Permit Conditions in addition to Mitigation Measures to reduce project impacts on the surrounding neighborhood. The project's operations would be primarily office and retail, which are compatible with the*



*surrounding Downtown uses in the area. No odors are associated with the operation of office uses.*

*The project would be required to adhere to standard building and grading permit conditions as well as air and water quality measures during the construction phase, which would minimize related impacts during this project phase.*

9. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, as follows:

- a. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

*Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding 'a'.*

- b. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

*Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding 'b'.*

- c. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

*Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding 'c'.*

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

*Analysis: The project consists of two buildings with commercial office and retail uses, connected by an above-ground pedestrian bridge and at a below-ground parking level. The pedestrian bridge connects the Arbor Building to the rooftop terrace of the Davidson Building. The Arbor Building massing is carved away along the Terraine Street façade closest to the Davidson Building, with additional carving further along the south and east facades. This helps activate the lobby entry and the plaza area, and promotes a design that is harmonious and mutually compatible.*

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

*Analysis: The project includes architectural design that is compatible with the character of the surrounding Downtown neighborhood, which has a similar high-rise building located to the southeast at the corner of Terraine Street and West St. James Street. As previously identified, the site is surrounded by Pellier Park to the east, a high-rise multifamily residential building to the southeast, a vacant commercial structure to the south, Highway 87 to the west, vacant land to the northwest, and a mixed-use commercial and multifamily residential building to the north. The project includes modern contemporary architecture including glass, concrete, and painted aluminum materials and variations on massing and pattern, which contribute to an interesting and varied design.*

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding 'g'.*

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

*Analysis: Landscaping is provided along the sidewalk, the pedestrian plaza between the two buildings, upper story courtyards within the Arbor Building, and a rooftop terrace as part of the Davidson Building. Utilities associated with the building are shielded from view. The trash enclosure is located inside the building and is shielded from the view from all adjacent public space.*

- h. Traffic access, pedestrian access and parking are adequate, in that the project is subject to construction of public improvements and sidewalk access.

*Analysis: The project meets the requirements for parking, curb cuts, and street access per the San José Municipal Code. The main vehicular site access to the below-ground parking levels is from Terraine Street, and the main pedestrian access to both buildings is from the pedestrian plaza.*

10. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.

- a. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

*Analysis: As identified above, eight ordinance-size trees and 25 non-ordinance trees are proposed to be removed from the vacant surface parking lot area of the project site. The trees will need to be removed to construct the project. Based on this reason, and to accommodate the project, the trees proposed for removal cannot be preserved.*

*The trees proposed to be removed are required to be replaced at the City-required ratio below. Per the Arborist Report prepared by HMM for the project dated June 8, 2021, the eight ordinance-size trees to be removed are of non-native or otherwise unsuitable species, including Deodar Cedar, Evergreen Pear, and Chinese Pistache. These eight trees are required to be replaced at a ratio of 4:1, resulting in 32 replacement trees required.*

*Of the 25 non-ordinance trees proposed to be removed, 13 are sized between 19 and 38 inches in circumference and are of non-native species including Honey Locust and Evergreen Pear. These trees will be replaced at a ratio of 2:1, resulting in 26 replacement trees required.*

*The remaining 12 non-ordinance trees are sized less than 19" in circumference and are of non-native species including Japanese Maple and Water Gum. These trees will be replaced at a ratio of 1:1, resulting in 12 replacement trees required.*

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

*Based on these calculations, the project is required to plant a total of 70 replacement trees at 15-gallon size or 35 replacement trees at 24-inch box size. Pursuant to the project landscaping plan, the development would plant 61 trees at 48" box size, which is consistent with the requirements.*

In accordance with the facts and findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to be constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the Director, if within such time period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José- Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, "255 West Julian" dated August 13, 2021 on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
7. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
8. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
9. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
10. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.



12. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
13. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
14. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
15. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
16. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
17. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
18. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
19. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
20. **Permit Adjustment Required.** Prior to the issuance of any Building Permit, Permittee shall obtain a Permit Adjustment which addresses the following items to the satisfaction of the Director of Planning, Building and Code Enforcement: **Back-up Generator:** A back-up generator must meet the following:
  - a. Be enclosed within the building
  - b. Be consistent with the Municipal Code Section 20.80.2030:
  - c. Operation of a temporary stand-by or backup power generation facility, by definition, shall not exceed a maximum time period of four (4) consecutive months in any twelve (12) month period.
  - d. Testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.
21. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
22. **Projects with Non-Residential and Commercial Uses.** For all Non-Residential development adding or constructing 5,000 square feet or more of new or additional floor area. An applicant is required to submit to the Housing Department, as part of its the application for First Approval the following: (a) Satisfaction Plan, (b) all attachments to the Satisfaction Plan and (c) the required application processing fee.

23. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
24. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
25. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
26. **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage, unless otherwise approved by the Public Works Department. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.
27. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
28. **FAA Clearance Required.** Prior to filing an application for a Building Permit, the permittee shall obtain from the Federal Aviation Administration (FAA) a "Determination of No Hazard" for each building high point. The permittee shall initiate the regulatory FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for each roof-top corner and any additional highest point(s) of the proposed structure. The data on the forms should be prepared by a licensed civil engineer or surveyor at a "1-A" accuracy standard using NAD83 latitude/longitude coordinates out to hundredths of seconds, and NAVD88 elevations rounded off to next highest whole foot.
  - a. **Construction Cranes.** Prior to issuance of a Building Permit for vertical construction, and prior to the required filing with the FAA for airspace obstruction review of temporary construction cranes for vertical construction, the permittee shall coordinate with the San Jose Airport Department to formulate an agreement on crane elevation and operational parameters. Compliance with an Airport-approved construction crane agreement shall become a condition of Building Permit issuance for vertical construction. Contact Ryan Sheelen, [rsheelen@sjc.org](mailto:rsheelen@sjc.org) (408-392-1193), of the San José Airport Department to initiate the construction crane agreement coordination.
  - b. **Avigation Easement.** Prior to the issuance of a Building Permit for vertical, the property owner shall grant an Avigation Easement to the City of San José. Contact Ryan Sheelen, [rsheelen@sjc.org](mailto:rsheelen@sjc.org) (408-392-1193), of the San José Airport Department to initiate the easement dedication process.

- c. **FAA Clearance Permit Adjustment.** Prior to filing an application for a Building Permit for vertical construction, the permittee shall apply for and obtain a Permit Adjustment to incorporate any and all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications, into the SP21-037 conditions of approval.
  - d. **Subsequent Permit Adjustments.** Any Permit Adjustment application filed by the permittee that proposes a change to maximum structure elevations or location of the structure's highest point(s), will be referred by the Planning, Building, and Code Enforcement Department to the Airport Department for review prior to approval. Permit Adjustment approval may include new conditions or the requirement to revise or redo compliance with other conditions included in this Permit.
29. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, SP21-037, shall be printed on all construction plans submitted to the Building Division.
  - b. *San Jose's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit [www.sjenvironment.org/reachcode](http://www.sjenvironment.org/reachcode).
  - c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - d. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - e. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - f. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
30. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as amended and adopted by the City.
31. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services>

32. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development.

33. **Standard Environmental Permit Conditions**

- a. **Air Quality.** The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site.
  - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
  - ii. Cover trucks transporting soil, sand, or other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
  - iii. Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
  - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
  - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
  - vii. Replant vegetation in disturbed areas as quickly as possible.
  - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
  - x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications.
  - xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.
- b. **Transportation.** The following Transportation Demand Management (TDM) measures will be implemented by the building owner and coordinated with future tenants occupying the project development. Implementation, monitoring and reporting shall be per the of the Transportation Demand Management (TDM) Plan prepared by Hexagon Transportation Consultants dated August 2021:
  - i. Carpool/Vanpool Measures
  - ii. Telecommuting and Flexible Work Schedule
  - iii. On-Site TDM Coordinator
  - iv. On-Site Support Services



- v. On-Site Showers and Lockers
- vi. Guaranteed Ride Home
- c. **Biological Resources. Tree Replacement.** The removed trees on-site would be replaced according to tree replacement ratios required by the City, as provided in in the Tree Removal Findings above, as amended.
  - i. Based on the eight ordinance-size trees and 25 non-ordinance trees to be removed, the project is required to plant a total of 70 replacement trees at 15-gallon size or 35 replacement trees at 24-inch box size. Pursuant to the project landscaping plan, the development would plant 61 trees at 48" box size. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
  - ii. The species and exact number of replacement trees to be planted on a given project site would be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. The planting and maintenance of replacement and street trees will be made conditions of development approval.
- d. **Santa Clara Valley Habitat Plan (SCVHP).** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of PBCE or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The SCVHP and supporting materials can be viewed at [www.scv-habitatplan.org](http://www.scv-habitatplan.org).
- e. **Cultural Resources**
  - i. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
  - ii. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance

of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- a) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- b) The MLD identified fails to make a recommendation; or
- c) The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

iii. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

f. **Geology and Soils.** To minimize potential direct or indirect damage from seismic shaking on the project site, the project would include the following measures:

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites will be weatherized.
- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

- iv. Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.
  - v. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.
- g. **Hazards and Hazardous Materials.** Asbestos and Lead-based paint. The project shall incorporate the following measure to ensure that asbestos containing materials and lead-based paint are not released during demolition:
- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
  - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
  - iii. All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
  - iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
  - v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- h. **Hydrology and Water Quality.** Construction-related water quality.
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
  - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
  - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust, as necessary.
  - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
  - v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall be required to maintain at least two feet of freeboard.

- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
  - vii. Vegetation in disturbed areas would be replanted as quickly as possible.
  - viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
  - ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
34. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **17<sup>th</sup> day of November, 2021.**

Christopher Burton, Director  
Planning, Building, and Code Enforcement

Deputy